

COUNCIL COMING ATTRACTIONS



Week of Nov. 16, 2020

County's 2020-2024 Subdivision Staging Policy (Growth and Infrastructure Policy), COVID-19 Public Health Update, Coronavirus Relief Fund, Community Policing Data, School Resource Officers, Semi-Annual Report of the Planning Board

Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at: <http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html>

The Council meeting schedule may change from time to time. The current Council and Committee agendas can also be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html>

The Council will hold virtual meetings on Monday, Nov. 16 at 1:30 p.m. and Tuesday, Nov. 17 at 9:30 a.m.

COUNCIL

2020-2024 Subdivision Staging Policy (Growth and Infrastructure Policy)

On Monday, Nov. 16, the Council will meet at 1:30 p.m. to vote on the County's 2020-2024 Subdivision Staging Policy, which is one of the many ways that policymakers maintain and enhance Montgomery County's outstanding quality of life. The Subdivision Staging Policy is based on having sufficient infrastructure to support new development. It includes criteria and guidance for the administration of Montgomery County's Adequate Public Facility Ordinance (APFO), which matches the timing of private development with the availability of public infrastructure. Every four years, recommendations for policy updates reflecting current growth patterns start with the Montgomery Planning Department, before being reviewed and approved by the Montgomery County Planning Board and the Council. This year's update provided an enhanced focus on schools in relation to growth and development in Montgomery County. The transportation side of the Subdivision Staging Policy evaluated transportation policy areas, modes of travel, areawide development impacts and modeling data with a new focus on Vision Zero safety standards.

The Council is scheduled to vote to change the name of the Subdivision Staging Policy to the Growth and Infrastructure Policy to help encourage more public interest and involvement in the topic. Some key changes related to schools, transportation and taxes are listed below. In the area of schools, the Council is scheduled to vote on the following provisions:

- Classify County neighborhoods into School Impact Areas, termed Infill or Turnover Areas, based on the area's recent and anticipated growth. The goal of this change is to provide a more context-sensitive measure for the calculation of school impact taxes and development evaluation.
- Require the Planning Board to adopt, by Jan. 1, 2021, a set of Annual School Test Guidelines, which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications in order to provide a more transparent process for the evaluation and adoption of the Annual School Test.
- Eliminate the development moratorium Countywide, replacing it with a three-tiered Utilization Premium Payment where the payment required increases with increased levels of overutilization. The aim of this change is to eliminate the uncertainty and inefficiency associated with residential development moratoria and to further support the County's housing goals, while still addressing the fiscal needs of school facility conditions.

In the area of transportation, the Council is scheduled to vote on the following provisions:

- Prioritize motor vehicle mitigation strategies designed to improve travel safety.
- Introduce a Vision Zero Impact Statement for certain transportation studies depending on the project's size.
- Eliminate the transportation study requirement for motor vehicle adequacy in Red Policy Areas (Metrorail Station Policy Areas and Purple Line Station Areas). There will no longer be traffic congestion standards or traffic analysis test in the vicinity of these areas.
- Exempt bioscience facilities, for the next four years, from all Local Area Transportation Review (LATR) tests to provide faster approval of facilities that support COVID-19 research and provide significant employment opportunities in the County.
- Update the requirements for developer-funded bikeways, sidewalks and bus shelters to be more robust.

Notable tax-related changes in the Growth and Infrastructure Policy include the following:

- Calculate standard school impact taxes at 100 percent of the cost of a student seat using School Impact Area student generation rates. Currently, school impact taxes are based on 120 percent of the cost of a student seat. This change more accurately reflects the true cost of school facilities.
- Provide a discount on transportation impact taxes in desired growth and investment areas to further incentivize development in these areas.
- Exempt from both school and transportation impact taxes any development located in a Qualified Opportunity Zone certified by the U.S. Treasury Department, to further incentivize growth and development in areas recognized as needing investment.
- Allow 60 percent impact tax credit for construction of three-bedroom units in Infill School Impact Areas. Encourage construction of more family-sized multifamily housing near transit.

The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201116/20201116_1.pdf

Bill 37-20, Subdivision – Preliminary Plan – Adequate Public Facilities – Amendments

The Council is scheduled to vote on Bill 37-20, which would authorize the Planning Board to make a new

adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of board review when an applicant requests an extension of an adequate public facilities determination. The new determination would be done if the unbuilt units generate more than 10 students at any school serving the development. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201116/20201116_2A.pdf

#ValidityPeriod is being used for this bill on social media.

Bill 38-20, Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments

The Council will vote on Bill 38-20, which would amend transportation and school impact tax district designations and the impact tax rates that apply in these districts. Bill 38-20 also would modify the applicability of development impact tax exemptions for certain uses and in certain locations, and generally amend the law governing transportation and school development impact taxes. Council President Sidney Katz is the lead sponsor, at the request of the Planning Board. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201116/20201116_2B.pdf

#ImpactTax is being used for this bill on social media

Resolution to Amend the Development Impact Tax Rates for Transportation and Public School Improvements

The Council will also act on a resolution to amend development impact tax rates for transportation and public school improvements. The rates in the resolution reflect the Council's straw votes as an outcome of its review of the Draft 2020-2024 Subdivision Staging Policy and Bill 38-20, Development Impact Taxes. The Council's straw votes reflect the creation of two zones for the School Impact Tax. The Council added a use category to the transportation impact tax table for agricultural facilities with a \$0.00 rate. The Council recommends no other rate changes to the transportation impact tax rate schedule. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201116/20201116_3.pdf

Resolution to Establish Utilization Premium Payment Rates for Public School Improvements

The Council will introduce a Resolution to Establish Utilization Premium Payment Rates for public school improvements. The rates in the resolution reflect the recommendations of the Council as an outcome of its review of the Draft 2020-2024 Subdivision Staging Policy (SSP) and Bill 38-20, Development Impact Taxes. The Council recommendations reflect the creation of three utilization thresholds at which a Utilization Premium Payment (UPP) will apply. In any school service area with a utilization rate of 105 percent up to a utilization rate of 120 percent, a UPP equal to 40 percent of the portion of the applicable impact tax for the inadequate school level will apply. In any school service area with a utilization rate of 120 percent up to a utilization rate of 135 percent, a UPP equal to 80 percent of the portion of the applicable impact tax for the inadequate school level will apply. In any school service area with a utilization rate of 135 percent or higher, a UPP equal to 120 percent of the portion of the applicable impact tax for the inadequate school level will apply. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201116/20201116_4.pdf

Supplemental Appropriation to Montgomery College's FY21 Operating Budget - \$1,361,801 for CARES Act Governor's Emergency Education Relief Fund

On Tuesday, Nov. 17 at 9:30 a.m. the Council will introduce a supplemental appropriation of \$1,361,801 to the Fiscal Year 2021 (FY21) Operating Budget of Montgomery College for the CARES Act Governor's Emergency Relief (GEER) Fund. Montgomery College plans to use the GEER funds to help residents whose employment has been impacted by COVID-19 pursue training, workforce development and continuing professional education programs that lead to industry-required certification or licensure. A

majority of the funds will be used for direct student support such as scholarships for tuition and fees, student vouchers for instruction materials, technology, testing fees and other employment-related costs. The remainder of the funds will be used for project personnel and other administrative costs. The Council is tentatively scheduled to hold a public hearing and consider action on this supplemental appropriation on Dec. 1, 2020. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_4A.pdf

Special Appropriation to the County Government's FY21 Operating Budget, Department of Housing and Community Affairs (DHCA) - \$3,473,228 for COVID-19 Response: Maryland State CDBG-CV HUD CPD Funding

The Council will introduce a special appropriation of \$3,473,228 to the Department of Housing and Community Affairs' FY21 Operating Budget for COVID-19 response. The Council is tentatively scheduled to hold a public hearing and consider action on this appropriation on Dec. 1, 2020. The COVID-19 public health crisis has resulted in the total or partial loss of income for many households. Montgomery County has received additional federal CARES Act Community Development Block Grant-CV (CDBG-CV) funds through the State of Maryland to be used for financial support for County residents facing hardships due to COVID-19. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_4C.pdf

Special Appropriation to the County Government's FY21 Operating Budget, DHCA - \$4,227,565 for COVID-19 Response: CDBG-CV HUD CPD Funding

The Council will introduce a special appropriation of \$4,227,565 to the Department of Housing and Community Affairs' FY21 Operating Budget for COVID-19 response. The Council is tentatively scheduled to hold a public hearing and consider action on this appropriation on Dec. 1, 2020. The COVID-19 public health crisis has resulted in the total or partial loss of income for many households. Montgomery County has received additional federal CARES Act Community Development Block Grant-CV (CDBG-CV) funds to be used for financial assistance and emergency shelter support for people facing financial hardships because of the COVID-19 health crisis. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_4D.pdf

Resolution to Approve Ride On Title VI Policies, Title VI Implementation Plan 2021-2023, and Title VI Compliance Monitoring Report

The Council will introduce a resolution to approve Ride On Title VI policies. Every three years the Federal Transit Administration requires each transit operator to update its Title VI policy, plan and monitoring. Ride On's last update was in 2017. The links to these documents can be found [here](#). The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_4E.pdf

Novel Coronavirus (COVID-19) and County Public Health Planning

The Council will sit as the Board of Health to receive an update on the County's ongoing response to the COVID-19 pandemic and its recovery efforts. The Council will be joined by Dr. Travis Gayles, County health officer and chief of the Department of Health and Human Services' (DHHS) Public Health Services; Dr. Earl Stoddard, director, Office of Emergency management and Homeland Security; and Dr. Raymond Crowel, director, DHHS. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_5A.pdf

Coronavirus Relief Fund

As the result of the Council's Oct. 13 meeting, requested by Councilmember Nancy Navarro and supported by the full Council, about the Coronavirus Relief Fund, the Council receives a weekly status report on appropriations and expenditures from the fund by executive branch staff. Since all funds must be used by Dec. 31, 2020, it is important to track the County's use of the funds and whether any reallocations or

additional appropriations are necessary. Rich Madaleno, chief administrative officer, and Dr. Earl Stoddard, director, Office of Emergency Management and Homeland Security, will brief the Council. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_5B.pdf

Bill 45-20, Police – Community Policing – Data

The Council will introduce Bill 45-20, which aims to ensure greater transparency in the Montgomery County Police Department (MCPD) and to create publicly available data related to the race, ethnicity, gender and other voluntarily provided information about residents involved in policing actions. Councilmembers Will Jawando, Nancy Navarro, and Gabe Albornoz, and Council Vice President Tom Hucker and Council President Sidney Katz are the lead sponsors. Councilmember Hans Riemer is a cosponsor. Bill 45-20 would require MCPD to report to the Council by Feb. 1 of each year on a variety of data points including the demographic makeup of the department; the number of instances of use of force that resulted in an injury when the injury occurred as a direct result of an officer's actions; the number of civilian complaints about the use of force by an officer; the number of civilian complaints regarding discrimination and harassment; and demographic information about residents stopped (including a stop and frisk that does not result in an arrest), among others. It would further require MCPD to collect and report race and ethnicity data for every dataset it maintains internally and posts on its web portal; to maintain data sets, including race and ethnicity data, about use of force incidents, criminal citations and juvenile citations, among others; and to provide the above information to the Policing Advisory Commission. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_6A.pdf

#OpenPoliceData and #OpenPoliceDataMoCo are being used for this bill on social media.

Bill 46-20, Police - School Resource Officers – Prohibited

The Council will introduce Bill 46-20, which would prohibit the Montgomery County Police Department from deploying School Resource Officers (SROs) to Montgomery County Public Schools. Councilmembers Will Jawando and Hans Riemer are the lead sponsors. A school resource officer is a sworn uniformed law officer trained in emergency preparedness, crisis management, community policing concepts and problem solving who is assigned to work as a liaison to Montgomery County Public Schools. The Montgomery County Police Department currently assign 23 police officers to work as SROs in specific public schools pursuant to an existing memorandum of understanding with Montgomery County Public Schools. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_6B.pdf

#PoliceFreeSchoolsMoCo is being used for this bill on social media.

Office of Inspector General (OIG) Report Publication #21-003 – County SharePoint Exposes Sensitive Information of Vulnerable Populations

The Council will receive a briefing on Office of Inspector General (OIG) Report Publication #21-003. On Sept. 24, Inspector General Megan Davey Limarzi sent a Memorandum of Investigation to then-Acting Chief Administrative Officer Richard Madaleno to advise him of the discovery of sensitive and personally identifiable information found on information sharing platforms used by the County. She noted that OIG has raised concerns about data security issues several times in the last few years.

The IG will brief the Council on the Office's report and Executive staff will present their response to the five recommendations in the report and describe the actions they have taken thus far. The OIG recommendations are as follows:

1. restrict access to the Tree House SharePoint site and associated files;
2. assess the extent to which the records of children evaluated by Tree House were accessed by

- persons without a need to know and take appropriate remediation measures;
- 3. discontinue the use of file sharing platforms until data security vulnerabilities are addressed;
- 4. alert County employees to the vulnerabilities existing with the County's use of document sharing platforms; and
- 5. instruct County employees and DTS to delete documents containing PII and other sensitive information from document sharing platforms.

The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_9.pdf

Semi-Annual Report of the Planning Board

The Council will receive the semi-annual report of the Montgomery County Planning Board, which outlines accomplishments, current work program items and both the Planning Department and Parks Department responses to COVID-19. The Semi-Annual Report of the Planning Board to the Council typically occurs in the spring and fall each year. It is an opportunity for the Board to brief the Council on the accomplishments of the Parks and Planning Departments and provide an update on work program items. The fall report is customarily provided to the Council in the form of a presentation. The spring Semi-Annual report will be accompanied by a booklet as well as a presentation. Casey Anderson, chair of the Planning Board; Gwen Wright, director of the Planning Department; and Michael Riley, director of Montgomery Parks, are among those expected to attend the meeting. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_11.pdf

PUBLIC HEARINGS

All Council public hearings will be held on Tuesday, Nov. 17 at 1:30 p.m.

Special Appropriation to the County Government's FY21 Operating Budget, - \$35,636,325 for Federal Coronavirus Relief Fund NDA and Amendment to Resolution 19-498, Special Appropriation to the County Government's FY20 Operating Budget, Federal Coronavirus Relief Fund NDA

The Council will hold a public hearing and is scheduled to vote on a special appropriation of \$35,636,325 for the Federal Coronavirus Relief Fund NDA. This appropriation is requested for the remaining unappropriated CARES funds received from the federal government to allow funds to be expended by Dec. 30. This appropriation would authorize the County Government to expend these additional funds on the list of uses previously approved in Resolution 19-498 as amended; 2) further amend Resolution 19-498 to allow three additional uses for funds from the NDA; and 3) allow the NDA to reimburse the General Fund for two previously approved special appropriations. The Council staff report will be available on Nov. 16.

Special Appropriation to the FY21 Operating Budget, Montgomery County Economic Development Corporation Non-Departmental Account, Restaurant Relief Grant Program, \$8,230,497 (Source: State grant) and Amendment to the FY21 Operating Budget Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status: Montgomery County Economic Development Corporation

The Council will hold a public hearing and is scheduled to vote on a special appropriation of \$8,230,497 to the Montgomery County Economic Development Corporation (MCEDC) NDA's FY21 Operating Budget. The County Executive has requested approval of the subject resolution to implement the Restaurant Relief Grant Program. This program is fully funded through a State grant as part of Governor Hogan's \$250 million "Maryland Strong: Economic Recovery Initiative." The County Executive has proposed that MCEDC implement the program for the County. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201117/20201117_8.pdf

COMMITTEE

Resolution Designating the County's Economic Development Corporation

On Monday, Nov. 16 at 10:30 a.m. the Planning, Housing and Economic Development (PHED) Committee will review a resolution designating the Montgomery County Economic Development Corporation (MCEDC) as the County's Economic Development Corporation. MCEDC's designation as the County's Economic Development Corporation expires on Jan. 1, 2021. County law allows for the County to designate a nonprofit corporation as the County's EDC. The designation is for five years and requires the approval of the County Executive. The following individuals are expected to attend the meeting: Robby Brewer, chair, MCEDC Board; Kevin Beverly, vice chair, MCEDC Board; Elana Fine, secretary, MCEDC Board; Carmen Larsen, treasurer, MCEDC Board; Ben Wu, CEO and president, MCEDC; Bill Tompkins, executive VP and COO, MCEDC; Brad Stewart, senior VP of business development, MCEDC; Stacey Hardy, VP of operations, MCEDC; Kristen O'Keefe, VP of communications and marketing, MCEDC; Sarah Miller, VP of strategy, MCEDC; and Tina Benjamin, Office of the County Executive. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2020/20201116/20201116_PHED1.pdf

Bill 37-19 - Economic Development Fund - Use of Fund and Remedies for Noncompliance

The PHED Committee also will review Bill 37-19, which would require recipients of Economic Development Fund assistance to agree to certain terms and conditions regarding the use and repayment of the assistance. Councilmember Evan Glass is the lead sponsor. Councilmembers Hans Riemer and Will Jawando are cosponsors. Bill 37-19 also would do the following: alter eligibility requirements for the Small Business Innovation Research and Small Business Technology Transfer Matching Grants; require the repayment to the County of Small Business Innovation Research and Small Business Technology Transfer Matching Grants in certain circumstances; impose remedies related to the provision of false or fraudulent applications and the use of Fund assistance for unauthorized purposes; and generally amend the law related to the Economic Development Fund. The goal of this legislation is to increase accountability in the use of grant funds and to expand eligibility for the Small Business Innovation Research and Small Business Technology transfer Matching Grant Program. The Council staff report can be viewed here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2020/20201116/20201116_PHED2.pdf

#EconomicDevelopmentAssistance is being used for this bill on social media.

Boards, Committees and Commissions Priorities

On Nov. 18 at 8:30 a.m. the Health and Human Services (HHS) Committee will review priorities in the County's Boards, Committees and Commissions. The Council staff report will be available on Nov. 16.

Bill 44-20, Racial Equity and Social Justice - Impact Statement - Advisory Committee – Amendments

On Nov. 18 at 1:30 p.m. the Government Operations and Fiscal Policy (GO) Committee will review Bill 44-20, which would require the Office of Legislative Oversight (OLO) to submit a racial equity and social justice impact statement for each zoning text amendment. Councilmember Nancy Navarro is the lead sponsor. All other Councilmembers are cosponsors. Bill 44-20 also would add two additional public members to the Racial Equity and Social Justice Advisory Committee and authorize the County Executive to establish one or more task forces to study and make recommendations on specified racial equity and social justice issues.

In Nov. 2019, the Council unanimously approved the Racial Equity and Social Justice Act after conducting numerous community conversations and reviewing the analysis of the Council's Office of Legislative Oversight. This seminal legislation was spearheaded by Councilmember Navarro.

The Racial Equity and Social Justice Act created an official program for Montgomery County government, under the oversight of the newly created Office of Racial Equity and Social Justice. It requires each County department and office to develop a racial equity and social justice action plan, and requires that legislation, public policy initiatives and government programs, supported by budget requests, include a racial equity and social justice impact statement. It also established a Racial Equity and Social Justice Advisory Committee that would include members of the public.

Finally, it required the Montgomery County Planning Board to consider racial equity and social justice issues when preparing master plans for submission to the Council. These plans include recommendations for land uses, transportation and public facilities such as schools, libraries, community and recreation centers, parks and fire and police stations. The Council staff report will be available on Nov. 16.

#EquityMattersinMoCo is being used for this bill on social media.

Internet Access in the Time of COVID-19

The GO Committee also will review issues related to internet access for students, vulnerable residents and other groups during the global COVID-19 pandemic. The Council staff report will be available on Nov. 16.

Boards, Committees and Commissions Priorities

On Nov. 19 at 1:30 p.m. the Health and Human Services (HHS) Committee will continue its review of priorities in the County's Boards, Committees and Commissions. The Council staff report will be available on Nov. 17.

Resource and Recycling Management (Solid Waste) Update

On Nov. 19 at 1:30 p.m. the Transportation and Environment (T&E) Committee will receive an update on the County's resource and recycling management. The Council staff report will be available on Nov. 17.